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FOR IMMEDIATE RELEASE

Decision of the Supreme Court of Canada: A major advance for minority language education rights

The Commissioner of Official Languages, Dr. Dyane Adam, is highly gratified with the unanimous decision of the Supreme Court of Canada, signed by Justices Major and Bastarache, in the case of *Noëlla Arsenault-Cameron, Madeleine Costa-Petipas, Fédération des parents de l'Île-du-Prince-Édouard Inc. v. Government of Prince Edward Island*.

It may be recalled that, at the request of the Prince Edward Island French School Board, the Court was asked to rule whether, under section 23 of the *Canadian Charter of Rights and Freedoms*, the discretionary powers of the Minister of Education could be used to overturn the decision by the Prince Edward Island French School Board to open a school in Summerside. The decision handed down today overturns the decision of the Prince Edward Island Court of Appeal and reinstates that of Mr. Justice DesRoches of the trial court.

The Commissioner is delighted with the victory of the parents in Summerside. "Once again the Supreme Court has recognized that the issue of access by the official language minority communities to schools in their language cannot be neglected if their vitality and development are to be fostered," she said.

In Dr. Adam's view, this decision will have a major impact across the country because it confirms that minority language parents and their representatives have the power to determine local needs for education, including the opening and the location of a new school. The Court states that this factor must be assessed on the basis of the minority community's priorities. What is more, the Court ruled that the Minister of Education cannot substitute his decision for that of the French school board when the board complies with provincial and constitutional requirements.

The Commissioner is pleased that the Court recognized in its judgment that "section 23 is premised on the fact that substantive equality requires that official language minorities be treated differently, if necessary, according to their particular circumstances and needs, in order to provide them with a standard of education equivalent to that of the official language majority."

The Court reinstated the interpretation of the trial court judge that the evidence showed that the number of students required under the school regulations was satisfied. The Court reaffirmed, among other things, that the purpose of section 23 is to remedy past injustices done to the linguistic minority (*Mahé, Manitoba Reference*); and that constitutional language rights must be interpreted in light of their objective (*Beaulac*).

Dr. Adam expressed the hope that this decision will have a positive impact on current and potential appeals and on the implementation of section 23 by the provinces and territories, in conformity with the needs and priorities of each official language minority community.

The Commissioner intervened in the Supreme Court of Canada on behalf of the parents in this case and is closely following the issue of the implementation of section 23 of the *Canadian Charter of Rights and Freedoms* everywhere in Canada.

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Information

Commissioner's Representatives



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